

**Application No. UP-688-05, SprintCom, Inc.:** Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize a 137-foot self-supporting communications tower with associated ground-mounted equipment located on a portion of the property located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2. The 15-acre property is located on the north side of Dare Road, approximately 1,500 feet east of its intersection with George Washington Memorial Highway (Route 17). The property is zoned RC (Resource Conservation) and is designated for Medium-Density Residential development in the Comprehensive Plan.

**Earl Anderson, AICP**, Planner, presented a summary of the report prepared for the Planning Commission, dated December 6, 2005, in which the staff recommended approval.

**Mr. Ptasznik** asked about insurance protection provided for Musco service representatives in the event of a needed light replacement, and **Mr. Anderson** assured him the County's risk or coverage would not be affected by the pole's replacement.

**Mr. Hamilton** inquired about options for co-location that are offered to representatives of the telecommunications providers that want to locate in the County. **Mr. Anderson** explained that the staff works with **Mr. Terry Hall**, Emergency Communications Coordinator in the Department of Fire and Life Safety, who helps to identify co-location opportunities for all applicants. The applicants are advised the County prefers co-locating whenever possible. Staff identifies other possible sites when co-locating is not feasible. He added that SprintCom considered three other sites that failed to meet their needs.

**Mr. Staton** asked if the School Division approved this proposal; **Mr. Anderson** said it did.

**Mr. Abel** expressed concern about safety of the elementary school students using the playground and ball field. **Mr. Anderson** explained the layout of the tower structures in relation to the ball field and school grounds. He stated that the proposed resolution includes a condition stipulating the tower be surrounded by a chain link fence and the entire equipment shelter covered with netting to prevent balls from going into the facility. **Mr. Carter** added the same precautions are in place at the communications tower at Waller Mill Elementary School, and added that the covered area is slanted to ensure that balls roll off thereby eliminating any need for retrieval.

**Chair Ptasznik** opened the public hearing.

**Mr. Curtis McMillan**, 4804 Mason Dale Drive, Richmond, VA, represented the applicant. **Mr. McMillan** said he had worked closely with County and School Division staff. The proposal complies with all County and Federal Communications Commission regulations. The applicant is seeking to satisfy customer demand for its cellular communications on Route 17, and the site selected would meet that need. He introduced **Mr. Richard Hixson**, York County School Division.

**Mr. Staton** asked Mr. Hixson about liability insurance coverage for the School Board.

**Mr. Richard Hixson**, Deputy Superintendent for Operations, York County School Division, explained that County schools have been dealing with towers since 1989 and continue to carry full liability coverage. **Mr. Abel** asked if there had been a liability issue since 1989; **Mr. Hixson** answered there had not.

**Mr. Barba** wondered if the proposed tower siting would be a problem in the event the school expanded in the future. **Mr. Hixson** said the School Board plans to erect a 10-classroom wing on the Dare campus and as a result all contingencies were anticipated and provided for in the proposal. That particular contingency had been discussed with the SprintCom representatives last spring.

**Mr. Hamilton** asked about the range of coverage. **Mr. McMillan** said the proposed tower would allow coverage in a four-to-five-mile outward radius to connect with the Sprint tower at Wendy's on Route 17 and another to the north, at Victory Industrial Park.

**Mr. Larry Wilson**, Peninsula Hardwood Mulch, residing at 7589 Spencer Road, Gloucester Point, said he entered into an arrangement several years ago with Alltel and located a 148-foot-tall tower at the Peninsula Hardwood Mulch site. He did not understand why no one had contacted him about co-locating on the existing Alltel tower, which he said is one-quarter mile closer to Route 17 than Dare Elementary School.

There were no others who wished to speak, and **Chair Ptasznik** closed the public hearing.

**Mr. Hamilton** questioned the necessity of another tower because the one at Peninsula Hardwood Mulch (PHM) is less than four miles from the Wendy's connection.

**Mr. Abel** asked if the Alltel tower was close enough to the two SprintCom towers off Route 17 to provide the needed coverage and also questioned the distinction between "adequate" and "perfect" siting.

**Mr. Carter** referred to the applicant's Verifiable Evidence Statement which states that the PHM site is too close to the existing tower behind Wendy's and south of the location needed for the desired coverage. He added that in staff's opinion, County schools and existing Dominion Virginia Power transmission towers are generally the best sites on which to co-locate cellular telephone transmitters.

**Mr. Ptasznik** spoke of antenna heights and other specifics such as tower footprints, existing tower sites in the vicinity, and did not understand why the PHM site would not be a good location.

**Ms. Conner** said the staff believed the existing school site was an ideal location to meet the applicant's needs and more desirable than a residential area. She added that revenues that would accrue to the County by co-locating at the school site while creating no liability and maintaining the basic appearance of the existing light pole.

**Mr. Abel** agreed that the school site was sensible for a pole tower. His greater concern was the multiplicity of tower sites and that each site had to be very specific to serve communications providers' coverage needs. He recommended asking the applicant's representative exactly why the PHM site did not meet his needs.

**Chair Ptasznik** re-opened the public hearing for Mr. McMillan to respond.

**Mr. Curtis McMillan** stated the PHM site was too close to Wendy's to accomplish the applicant's objective and a site parallel to Wendy's would not close the gap.

**Mr. Abel** inquired about the proposed tower height of 137 feet, because that if a future applicant required a taller tower it might make sense to request a taller tower now. **Mr. McMillan** stated the Federal Aviation Administration (FAA) limits the tower height in proximity to airports and, according to a preliminary study, the FAA would permit a maximum height of 137 feet only at the proposed location.

**Mr. Ptasznik** expressed concern over the proposed height and questioned whether any other user would co-locate on it.

**Mr. Barba** believed the Commission should assume the applicant and the staff appropriately and adequately researched the relevant issues and move on to recommend approval or denial.

**Mr. Ptasznik** suggested a revision allowing a height between 137 and 145 feet to give the applicant the option of providing more opportunities for co-location. **Mr. Staton** thought the FAA regulations were based on height above sea level, which was probably the same for the 145-foot-tall tower at Peninsula Hardwood Mulch and a 137-foot-tall tower at Dare Elementary School, given their topography. He proposed ending the discussion.

**Mr. Davis** moved adoption of proposed Resolution PC05-48.

Resolution No. PC05-48

On motion of Mr. Davis, which carried 6:1 (Mr. Abel dissenting), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT  
TO AUTHORIZE A 137-FOOT SELF-SUPPORTING MONOPOLE  
COMMUNICATIONS TOWER WITH ASSOCIATED GROUND MOUNTED  
EQUIPMENT AT 300 DARE ROAD

WHEREAS, SprintCom, Incorporated has submitted Application No. UP-688-05, which requests a Special Use Permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance, to authorize construction of a 137-foot freestanding monopole communications tower with associated equipment on the parcel located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2 (GPIN S06b-2936-4399); and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application; and

WHEREAS, the Commission has determined, pursuant to Section 15.2-2232 of the Code of Virginia, that the proposed communication tower location is substantially in accord with the York County Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of December, 2005 that Application No. UP-688-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of a 137-foot freestanding monopole communications tower with associated equipment on the parcel of land located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2 (GPIN S06b-2936-4399), subject to the following conditions:

1. This use permit shall authorize the construction of a freestanding monopole communications tower with associated equipment on the parcel of land located at 300 Dare Road (Route 621) and further identified as Assessor's Parcel No. 30-2.
2. The height of the tower shall not exceed 137 feet.
3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of land clearing or any construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "Sprint, Dare Elementary, 300 Dare Road, Yorktown, VA," Sheets T-1, Z-1, Z-1A, Z-2 and Z-3, dated 09/29/05 and revised 10/25/05 and 11/01/05, prepared by Fullerton Engineering Consultants, Inc. and received by the Planning Division November 8, 2005. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.
4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.

5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
7. The access easement shown on the above referenced sketch plan shall be established for the benefit of tower users for purposes of ingress, egress, and installation and maintenance of utilities associated with the proposed telecommunications facility prior to site plan approval.
8. Advertising and signage on the tower shall be expressly prohibited, except for warning signs associated with the operation of the tower or its equipment.
9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
10. Evergreen planting material shall be installed for screening surrounding the facility as shown on the above referenced sketch plan Sheet Z-2 and pursuant to Section 24.1-240 ET. Seq.
11. If at any time use of the communications tower ceases, the owner of the subject property on which the tower is located shall dismantle and remove it within six (6) months after ceasing to use it, unless:
  - (1) A binding lease agreement or letter of intent with another wireless communications provider has been executed in which case an additional six (6) months shall be granted. If a letter of intent is provided, the execution date for a binding lease agreement shall not extend more than (12) months beyond the time the use of the tower ceases, or
  - (2) The County requests, in writing, that the tower be reserved for County use.
12. Accessory facilities shall not include offices, vehicle storage, or outdoor storage unless permitted by the district regulations.

13. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is to be constructed.
14. The proposed 8-foot chain link fence surrounding the facility shall be outfitted with opaque material deemed acceptable for screening purposes by the Zoning Administrator.
15. The communication tower shall be gray in color. Should Federal Aviation Administration requirements dictate special markings, tower lighting shall be used in lieu of multi-color painting. If painting is required, a tower maintenance plan shall be submitted to and approved by the County.
16. No microwave dishes, conical shaped antennae, or other dish shall be permitted on the tower.
17. The communications tower shall be structurally designed to accommodate no fewer than three (3) wireless users capable of supporting either PCS or cellular antenna arrays. If space is available, the County shall have the right of first refusal for leasing a space on the tower to place an antenna in support of operations consistent with the County's Department of Fire and Life Safety.
18. A Natural Resources Inventory, including a Perennial Stream Determination, must be performed in accordance with Section 23.2-6 of the County Code by the Developer prior to any land disturbance or development (construction of the cell tower and appurtenances). If a perennial stream is determined, then a 100-foot Resource Protection Area (RPA) buffer must be placed landward of the stream and any adjacent wetlands and installing the proposed tower and appurtenances within the RPA will require an exception from the York County Chesapeake Bay Board.
19. A written statement from Musco Lighting (the supplier of the baseball field lighting system) is required detailing that there will be no detrimental effects on Musco Lighting's manufacturer warranty for the lighting system prior to site plan approval.
20. Written verification and a lighting drawing from a Musco Lighting representative will be submitted before site plan approval showing that the same lighting levels (foot candles) are provided on the field upon completion of the proposed tower.
21. Construction of the proposed tower shall occur only during the following times: November 1<sup>st</sup> through February 28<sup>th</sup> or August 1<sup>st</sup> through 31<sup>st</sup>. Completion of the tower must take place during these time periods and all lighting must be working and approved by the York County Division of Parks and Recreation.
22. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval.

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